

custody protection bill, immediately following morning business on Tuesday, July 25, and that it be considered under the following limitations: that the only amendments in order be the following: Feinstein, clergy and grandparent exemption, 2 hours equally divided; from the Democratic side, teen pregnancy prevention, 90 minutes equally divided; Boxer, parental incest, cannot sue, 2 hours equally divided; Ensign or designee, incest, to be voted on before the Boxer amendment, 2 hours equally divided; that there be 1 hour equally divided for general debate; and that following the disposition of the above-listed amendments and the use or yielding back of time, the bill be read a third time and the Senate proceed to passage of the bill, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that on Monday, July 24, at a time determined by the majority leader in consultation with the Democratic leader, the Senate proceed to executive session for the consideration of Executive Calendar No. 764, Jerome Holmes to be U.S. circuit judge for the Tenth Circuit. I further ask unanimous consent that there be 2 hours equally divided between the chairman and ranking member, or their designees, to be used on Monday and another 2 hours equally divided for debate to be used on Tuesday, July 25. I further ask unanimous consent that following the use or yielding back of time, the Senate proceed to a vote on the confirmation of the nomination with no intervening action or debate; further, I ask unanimous consent that following that vote, the President be immediately notified of the Senate's action and the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 538, which was submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 538) to authorize representation by the Senate legal counsel in the case of *Rockefeller versus Bingaman et al.*

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a pro se civil action

filed against Senator JEFF BINGAMAN, the United States Senate, Representative STEVE PEARCE, and the United States House of Representatives, in which plaintiff challenges as unconstitutional the fact that he does not have a guaranteed right to have his appeals heard by the United States Supreme Court nor a right to have a three-judge district court hear his challenges to Federal statutes at the trial court level. Plaintiff complains that permitting the Supreme Court discretion as to which appeals to hear and allowing single-judge district courts to decide cases challenging the constitutionality of Federal statutes violates the Constitution's separation of powers. Plaintiff seeks an injunction against the operation of the statutes that provide for petitioning the Supreme Court for a writ of certiorari and for convening a three-judge district court to hear a case.

This suit is subject to dismissal as defective on both threshold jurisdictional grounds and as failing to state a claim on the merits as a matter of law. This resolution authorizes the Senate Legal Counsel to represent Senator BINGAMAN and the United States Senate in this suit and to move for its dismissal.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 538) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 538

Whereas, in the case of *Rockefeller v. Bingaman, et al.*, Case No. 06-CV-0198 (D.N.M.), pending in the United States District Court of the District of New Mexico, the plaintiff has named as defendants Senator Jeff Bingaman and the United States Senate;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C., §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend the Senate and Members, officers, and employees of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Jeff Bingaman and the United States Senate in the case of *Rockefeller v. Bingaman, et al.*

COMMENDING THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 448, which was received from the House.

The ACTING PRESIDENT pro tempore. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 448) commending the National Aeronautics and Space Administration on the completion of the Space Shuttle's second Return-to-Flight mission.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HUTCHISON. Mr. President, the House has passed and sent to the Senate, H. Con. Res. 448, which commends NASA and the crew of the Space Shuttle *Discovery* on the successful completion of the STS-121 mission earlier this week.

I support this resolution and urge my colleagues to join with me and provide the Senate concurrence to this resolution. I also note that the House passed this resolution on July 20, the 37th anniversary of the *Apollo 11* lunar landing, adding special significance to the action we are being asked to endorse.

The resolution recognizes and applauds the very successful STS-121 mission, which accomplished all of its test objectives regarding on-orbit repair procedures, as well as delivering 14 tons of equipment and supplies to the International Space Station, and a third space station crew member. This restores the space station to its full crew complement since the *Columbia* accident and allows for additional crew time to be spent doing on-orbit research.

The mission also demonstrated that changes made to the external tank, while still not fully completed, resulted in the least amount of foam shedding during lift-off and the cleanest, most undamaged underside of the shuttle yet seen.

The successful completion of this second Return-to-Flight test mission is especially significant because it means the Shuttle Program is once again on the threshold of completing the important work of assembling the International Space Station.

If all goes as expected, the next mission to the Space Station will take place in just a little over 5 weeks from now, near the end of August. That mission will deliver additional supplies and equipment to the space station, including a new structural truss element and an additional set of solar arrays. Once the solar arrays are deployed, they will not only provide additional power to the space station, which can be used for an increasing number of scientific experiments during the ongoing assembly period, but they will begin to make the space station one of the brightest objects in the night sky. By the time the space station is completed, it will be brighter than any other object in the night sky besides the Moon, an ever-present reminder that we are a species no longer confined to the Earth and able to make use of that unique environment of low-Earth orbit for research that can benefit all of humanity.

I applaud the crew of *Discovery* and the team at NASA who all worked together to restore this Nation's ability

to conduct the human exploration and utilization of space.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 448) was agreed to.

The preamble was agreed to.

MEASURE PLACED ON THE CALENDAR—S. 3711

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3711) to enhance the energy independence and security of the United States by providing for exploration, development, and production activities for mineral resources in the Gulf of Mexico, and for other purposes.

Mr. FRIST. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The ACTING PRESIDENT pro tempore. Objection is noted.

The bill will be placed on the calendar.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 767, 768, 786 through 810, and all nominations on the Secretary's desk. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Martin J. Jackley, of South Dakota, to be United States Attorney for the District of South Dakota for the term of four years.

Brett L. Tolman, of Utah, to be United States Attorney for the District of Utah for the term of four years.

DEPARTMENT OF DEFENSE

Sue C. Payton, of Virginia, to be an Assistant Secretary of the Air Force.

Charles E. McQueary, of North Carolina, to be Director of Operational Test and Evaluation, Department of Defense.

IN THE AIR FORCE

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Gregory A. Biscione, 0000
Colonel Edward L. Bolton, Jr., 0000
Colonel Joseph D. Brown, IV, 0000
Colonel Gregory L. Brundidge, 0000
Colonel Timothy A. Byers, 0000
Colonel Michael W. Callan, 0000
Colonel David S. Fadok, 0000
Colonel Craig A. Franklin, 0000
Colonel David L. Goldfein, 0000
Colonel Francis L. Hendricks, 0000
Colonel John W. Hesterman, III, 0000
Colonel James W. Hyatt, 0000
Colonel John E. Hyten, 0000
Colonel Michelle D. Johnson, 0000
Colonel Richard C. Johnston, 0000
Colonel Joseph A. Lanni, 0000
Colonel Kenneth D. Merchant, 0000
Colonel Michael R. Moeller, 0000
Colonel Harry D. Pumbo, 0000
Colonel John D. Posner, 0000
Colonel James O. Poss, 0000
Colonel Mark F. Ramsay, 0000
Colonel Mark O. Schissler, 0000
Colonel Charles K. Shugg, 0000
Colonel Marvin T. Smoot, Jr., 0000
Colonel Alfred J. Stewart, 0000
Colonel Everett H. Thomas, 0000
Colonel William W. Uhle, Jr., 0000
Colonel Dartanian Warr, 0000
Colonel Brett T. Williams, 0000
Colonel Tod D. Wolters, 0000

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. N. Ross Thompson, III, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Thomas R. Turner, II, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Douglas E. Lute, 0000

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Charles H. Davidson, IV, 0000

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brigadier General Steven R. Abt, 0000
Brigadier General James A. Hasbargen, 0000
Brigadier General John P. McLaren, Jr., 0000
Brigadier General William Monk, III, 0000
Brigadier General James W. Rafferty, 0000

To be brigadier general

Colonel Craig A. Bugno, 0000
Colonel Harold G. Bunch, 0000
Colonel Walter B. Chahanovich, 0000
Colonel Christopher T. Cline, 0000
Colonel David S. Elmo, 0000
Colonel Robert N. Hipwell, 0000

Colonel Alexander I. Kozlov, 0000

Colonel Jon J. Miller, 0000

Colonel David L. Smalley, 0000

Colonel Robert P. Stall, 0000

Colonel Jonathan Woodson, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Stanley A. McChrystal, 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Jimmy G. Welch, 0000

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Richard F. Natonski, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Keith J. Stalder, 0000

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James F. Amos, 0000

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John F. Sattler, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Charles M. Gurganus, 0000

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) David J. Dorsett, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Richard E. Cellon, 0000

Rear Adm. (lh) Wayne G. Shear, Jr., 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Michael C. Bachmann, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Mark A. Handley, 0000

Capt. Christopher J. Mossey, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624: